

9. A stabilizer athletic shoe as in the claim 8 wherein said wedge member is from about 1/8 to about 1/4 inch thick, with said thickness increasing gradually from said medial part to said lateral part of said forefoot portion.

10. A stabilizer athletic shoe as in claim 8 further including a medial heel wedge member spanning the length and width of said heel from about 2 to about 5 degrees relative to the ground with the highest point of said medial wedge member being at the medial inner heel.

11. A stabilizer athletic shoe as in claim 9 further including a medial heel wedge member spanning the length and width of said heel from about 2 to about 5 degrees relative to the ground with the highest point of said medial wedge member being at the medial inner heel.

REMARKS

Claims 1-7, which are all the claims in this application as filed, have been cancelled by this amendment, without prejudice, and new claims 8-11 have been added which clearly distinguish over the applied references. Reconsideration of the action is requested in view of the present amendment and the following discussion.

Briefly, the present invention relates to an athletic shoe having unique lateral forefoot and heel stabilizer designed to increase proprioception of an athletic when engaged in an active moving sport, i.e., sports such as running, jogging, basketball and tennis, as compared to golf shoes which are designed to for different type of stability. By incorporating a lateral foot stabilizer and heel stabilizer, the width of the athletic shoe is effectively increased by about 1/4 to

about $\frac{3}{4}$ inch and the width of the lateral heel is also increased by about $\frac{1}{4}$ to about $\frac{3}{4}$ inch. Consequently, the ground-to-shoe contact area is increased at the forefoot and at the heel.

Newly added independent claim 8 is not anticipated by, nor is it obvious from the disclosure of the applied references.

United States Patent No. 5,448,839 (Blissett et al.) describes a shoe for persons who experience prolonged periods of standing. The Blissett et al. patent does not disclose or show a forefoot portion with a lateral wedge member, and does not have a lateral heel stabilizer attached to a heel counter as defined by applicants' claimed invention.

United States Patent No. 4,620,376 (Talarico II) also fails to disclose or describe a shoe having the aforementioned features of applicants' claimed stabilizer athletic shoe. This reference discloses a heel lift, which is not used in applicants' shoe due to possible increase in injury and metatarsal pain which are experienced when such a heel lift is used.

United States Patent No. 4,866,861 (Noone) relates to a golf shoe which is not the type of shoe with which applicants' athletic shoes are concerned. In Noone, the instep support is firmly attached to the sole. This reference does not disclose using a lateral tapered wedge member, nor does this reference disclose or require the use of a heel portion having a lateral heel stabilizer. The heel support 62 shown in Figure 1 of Noone is not a lateral heel stabilizer extending from the proximal end of the heel stabilizer to its distal end. Additionally, Noone does not provide for increased width and dynamic stability as in applicants' shoe structure.

United States Patent No. 2,179,942 relates to golf shoe attachment that "will increase the stability of an inexperienced player and/or that will increase the accuracy of his or her shot". Column 1, lines 27-29. In Lynn's golf shoe studs or spikes are added to the medial aspect of the shoe. This reference does not disclose or show the unique features of applicants' stabilizer athletic shoe as defined by the amended claim.

In view of the foregoing amendment and discussion, it is believed unnecessary to discuss In re Allen, 105 USPQ 233, which has been cited by the examiner. Suffice it to say for now that this case is not applicable to the amended claims, nor was it intended to apply to the present type of distinction.

In sum, the aforementioned references, singly or in combination, do not disclose or suggest applicants' features of the stabilizer athletic shoe now recited in new claims 8-11.

It is believed that the additional claims presented by this amendment do not require payment of additional fee since the total number of independent claims are 2 and the total number of claims is 11, both lower than the number of the respective claims permitted under 37 C.F.R. 1.16(b) and (c).

Respectfully submitted,



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CERTIFICATE OF MAILING
UNDER 37 C.F.R. 1.8(a)

It is hereby certified that the within Amendment is being deposited with the United States Postal Service in a postage prepaid envelope, first-class mail, addressed to Hon. Commissioner of Patents and Trademarks, Washington, D.C. 20231 on this 17th day of May, 2001.



Nancy Soto